

## **REMARKS**

Reconsideration is requested in view of the following remarks.

Claims 13-18 were rejected under 35 USC 251 as being broadened in a reissue application filed outside the two year statutory period. This rejection is traversed because this application is a divisional application, and the ultimate parent application, broadened reissue application 09/244,037, was filed within the two year time frame. If intent to broaden is indicated in a parent reissue application within the two years, a broadened claim can be presented in a divisional reissue application after the two year period. MPEP 1412.03(IV).

Claims 13-18 were provisionally rejected under the judicially created doctrine of double patenting, based on *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968), over claims 42-47 of copending application 09/680,177. This rejection is traversed.

MPEP §§ 804(II)(B)(2), deals with non-statutory double patenting rejections based on In re Schneller. The MPEP states that the decision in *In re Schneller* did not establish a rule of general application and thus is limited to the particular set of facts set forth in that decision. This section of the MPEP also states that non-statutory double patenting rejections based on *Schneller* will be rare and that after agreement by the SPE, “the approval of the TC Director must be obtained before such a non-statutory double patenting rejection can be made.” (Emphasis added). Further, it is worth noting the Board of Appeals & Interferences decision in Ex parte Davis, which, while not a precedential opinion, reflects a PTO Board of Appeals and Interferences opinion that “the principal opinion therein [i.e., in *Schneller*] is of doubtful controlling precedent.” Ex parte Davis, 56 USPQ2d 1434, 1436 (Bd. Pat. App. & Inter. 2000). This decision by the Board serves to reinforce the requirement for TC Director approval before such a double patenting rejection is imposed.

The fact situation in the present case is not the same as the fact situation in *In re Schneller* and the claims in the present case differ substantially from the claims in co-pending application 09/680,177. Accordingly, it is requested that the double patenting based on *Schneller* be removed.

Claims 13-18 were rejected under 35 USC 103(a) as being unpatentable over Basile in view of Nishizawa. This rejection is traversed.

Claims 13 and 14 include recitations of a mixer which can convert a VSB modulated signal (which is a terrestrial broadcasting signal) to a low frequency signal of the VSB modulated signal, and convert a QAM modulated signal (which is a cable television signal) to a low frequency signal of the QAM modulated signal. The combination of Nishizawa and Basile does not include any disclosure or suggestion of a single mixer operable to convert a VSB modulation signal to a low frequency signal of the VSB modulated signal and to convert a QAM modulated signal to a low frequency signal of the QAM modulated signal as recited in claims 13 and 14.

Claims 15 and 16 includes recitations of a mixer which can convert a VSB modulated signal (which is a terrestrial broadcasting signal) to a low frequency signal of the VSB modulated signal, and operable to convert a PSK modulated signal (which is a satellite broadcasting signal) to a low frequency signal of the PSK modulated signal. The combination of Nishizawa and Basile does not include any disclosure or suggestion of a single mixer operable to convert a VSB modulation signal to a low frequency signal of the VSB modulated signal and to convert a PSK modulated signal to a low frequency signal of the PSK modulated signal as recited in claim 15 and 16.

Claims 17 and 18 includes recitations of a mixer which can convert a PSK modulated signal (which is a satellite broadcasting signal) to a low frequency signal of the PSK modulated signal, and operable to convert a QAM modulated signal (which is a cable television signal) to a low frequency signal of the QAM modulated signal. The combination of Nishizawa and Basile does not include any disclosure or suggestion of a single mixer operable to convert a PSK modulation signal to a low frequency signal of the PSK modulated signal and to convert a QAM modulated signal to a low frequency signal of the QAM modulated signal as recited in claims 17 and 18.

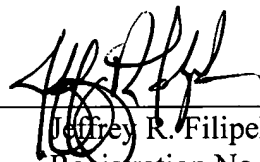
In view of the above, it is clear that no obvious combination of the systems of Nishizawa and Basile would result in the inventions recited in claims 13-18. Therefore it is submitted that the inventions of claims 13-18 would not have been obvious to a person having ordinary skill in the art at the time the present invention was made in view of the disclosures of Nishizawa and Basile.

It is respectfully submitted that the present application is in condition for allowance. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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